UNITED
NATIONS

CAT

Convention against Torture
and Other Cruel, Inhuman
or Degrading Treatment
or Punishment

Distr.
GENERAL

CAT/C/52/Add.1
21 September 2000

ENGLISH
Original: SPANISH

COMMITTEE AGAINST TORTURE

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 19 OF THE CONVENTION

Initial reports of States parties due in 2000

Addendum

BOLIVIA

[16 May 2000]

GE.00-44576 (E)

CONTENTS

		Paragraphs	Page
I.	INFORMATION OF A GENERAL NATURE	1 - 33	4
	A. General legal framework within which torture is prohibited and eliminated	2 - 14	4
	B. International instruments	15 - 21	6
	C. Judicial, administrative or other competent authorities with jurisdiction over matters dealt with in the Convention	22 - 29	9
	D. Current situation as regards the practical implementation of the Convention	30 - 33	10
II.	INFORMATION IN RELATION TO EACH OF THE ARTICLES IN PART I OF THE CONVENTION	34 -124	10
	A. Articles 2 to 16	34 - 88	10
	Article 2	34 - 36	10
	Article 3	37	11
	Article 4	38 - 39	11
	Article 5	40	12
	Article 6	41 - 43	12
	Article 7	44 - 49	13
	Article 8	50 - 51	14
	Article 9	52 - 56	14
	Article 10	57 - 59	14
	Article 11	60 - 68	15
	Article 12	69 - 70	16
	Article 13	71 - 76	16
	Article 14	77 - 85	17
	Article 15	86 - 87	18
	Article 16	88	18

CONTENTS (continued)

	Paragraphs	Page
B. Legislative, judicial, administrative or other measures in force which give effect to these provisions	89 - 120	19
C. Factors or difficulties affecting the practical implementation of these provisions	121 - 123	28
D. Concrete cases and situations where measures giving effect to these provisions have been enforced, including any relevant data	124	29

List of annexes*

Report on the activities of the Chamber of Deputies, Human Rights Commission, 1998-99 Legislature

Penal Code

Act relating to sworn Recognizance to Avert Delays in Criminal Justice

Code of Criminal Procedure (1999)

Act relating to Pardon for Minors and Older Persons in Detention

Public Defence Programme

Ombudsman Act

Executive Power Organization Act

Regulations relating to the Executive Power Organization Act

Complementary legislation to Supreme Decree No. 24,855 of 22 September 1997

Cases dealt with under the Public Defence Programme (1999)

Statistical table of cases dealt with by the Technical Judicial Police (1998)

Statistical table of cases dealt with by the Technical Judicial Police (1999)

Report of the Ombudsman (1998-1999)

* The annexes are available for consultation in the files of the secretariat.

I. INFORMATION OF A GENERAL NATURE

1. The Republic of Bolivia is situated in the South American part of the American Continent. It borders to the north and east on Brazil, to the south-east on Paraguay, to the south on Argentina, to the south-west on Chile and to the west on Peru. Its capital is Sucre. It has approximately 7 million inhabitants and a constitutional system of government.

A. General legal framework within which torture is prohibited and eliminated

1. Political Constitution of the State of Bolivia

2. With Act No. 1,473 of 1 April 1993 (need to reform the State Constitution Act), Bolivia expressed the political will to strengthen the institutions embodying the rule of law and democratic system, with the creation, for instance, of the Ombudsman, the Constitutional Court and the Judicature Council, through a lengthy constitutional procedure set out in articles 230 and 231 of the Constitution. The constitutional reform process continued with Act No. 1,585 of 12 August 1994 (Act reforming the State Constitution), passed by the National Congress and consolidated by the reform introduced with Act No. 1,615 of 6 February 1995 (Act adjusting and harmonizing the State Constitution) giving effect to the Constitution.

3. Some key points may be identified in the Constitution relating to the matter of torture and other cruel, inhuman or degrading treatment or punishment.

4. Article 12 of the Constitution states:

> "Any kind of torture, coercion, extortion or other form of physical or moral violence is prohibited, under penalty of immediate removal from office and without prejudice to the sanctions that may be incurred by anyone who applies, orders, instigates or consents to them."

5. Article 17, paragraph 1, provides:

> "The penalties of infamy and civil execution are prohibited. Murder, parricide and treason are punishable by 30 years' imprisonment, without the right of pardon."

6. The above article is consistent with article 34 of the Constitution, which states: "Anyone who violates constitutional rights and guarantees shall be subject to ordinary justice."

7. Furthermore, article 127, paragraph 1, states with regard to the Ombudsman: "He is also responsible for protecting, promoting and disseminating information on human rights."

2. Code of Criminal Procedure

8. The Code of Criminal Procedure was promulgated with Act No. 1,970 of 25 March 1999 and published on 31 May of that year. The Code is currently in the vacatio legis stage and will take full effect on 31 May 2001. The following articles of the Code are of relevance to torture.

9. Article 13 (Legality of evidence) states:

"Evidence shall be considered valid only if obtained by lawful means by a procedure in conformity with the provisions of the State Constitution and of this Code.

Any evidence obtained by torture, ill-treatment, coercion, threats, deceit or violation of the fundamental rights of the person, or obtained through information originating in an unlawful procedure or means, shall be disqualified."

10. Article 93 (Prohibited methods of obtaining statements) further states:

"In no event shall the accused be placed under oath, nor be subjected to any form of coercion, threat or promise, nor shall any means be used to oblige, induce or instigate him to make a statement against his will; nor shall any charges be brought against him to obtain a confession.

Any statement made by the accused containing a confession of the offence which is not made in the presence of either the prosecutor or defence counsel shall be considered null and void and may not be used in court, without prejudice to the administrative responsibility of any persons receiving or using the statement.

If in the course of making the statement, signs of fatigue or anguish appear in the accused, the statement shall be suspended until such signs disappear.

In all cases the statement of the accused shall be completed within an appropriate period of time."

11. A further clause to consider is article 296 (Arrest). In cases where the Code of Criminal Procedure authorizes the arrest of the accused, police officers must abide by the following basic principles in their actions: paragraph 3 prohibits inflicting, instigating or tolerating any act of harassment, torture or other cruel, inhuman or degrading treatment or punishment, both at the time of arrest and during the time of detention.

12. Article 299 concerning the supervision of detainees by the Public Prosecutor's Office provides that when the prosecutor visits the police premises, he must check the physical condition of the accused and the strict observance of all his and other rights.

3. Penal Code

13. The Penal Code was approved by Decree Law No. 10,426 of 23 August 1972, which was raised to the status of an Act and subsequently amended by Act No. 1,768 of 10 March 1997 and again by Act No. 2,033 of 29 October 1999, published on 2 December 1999.

14. The following are among the most relevant articles of the Code:

Article 295 (Harassment and torture): "Any official who harasses a detainee or allows him to be harassed shall be punished with imprisonment for between six months and two years.

If the official inflicts any kind of suffering or torture on the detainee, the penalty shall be increased to between two and four years of imprisonment.

If the torture causes injuries, the penalty shall be imprisonment for between two and six years; if it causes death, the penalty shall be 10 years' rigorous imprisonment."

Article 308 (Rape): "Any person who, by using physical violence or intimidation, obtains carnal access to a person of either sex, achieving anal or vaginal penetration or introducing objects for libidinous purposes, shall be liable to imprisonment for between 5 and 15 years.

Any person committing the above offences, even without the use of physical violence or intimidation, but taking advantage of the mental disability, seriously disturbed condition or serious mental deficiency of the victim, or if the latter is unable to resist for any other reason, shall be liable to imprisonment for between 15 and 20 years."

Article 308 bis (Rape of a child or adolescent): "Whoever obtains carnal access to a person of either sex below the age of 14, through anal or vaginal penetration or by introducing objects for libidinous purposes, shall be punished with imprisonment for between 15 and 20 years, without entitlement to pardon, even without the use of force or intimidation and even where consent is alleged.

This penalty shall not apply to consenting relations between adolescents above the age of 12, provided that the age difference between them is not greater than three years and that no violence or intimidation has been used."

Lastly, article 321 bis (Trafficking in persons): "Whoever shall bring about, promote or encourage the entry into or exit from the country or movement within it of persons to engage in prostitution, by means of deceit, violence or threats, or renders them unconscious for this purpose, shall be punished with imprisonment for between 4 and 8 years. If the victims are aged under 18 years, the penalty shall be 5 to 10 years' imprisonment.

If the victim is under 14 years, the penalty shall be 6 to 12 years' imprisonment, even in cases where the circumstances referred to in the above paragraph do not apply."

B. International instruments

15. The Bolivian State respects its international commitments in the field of human rights, at both universal and regional level. The Universal Declaration and the American Declaration are binding on Bolivia's domestic legislation. The relevant articles are as follows:

1. Universal Declaration of Human Rights

16. There is essentially one relevant article, namely:

Article 5: "No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment."

2. American Declaration of the Rights and Duties of Man

17. Three articles in particular are binding in this respect, namely:

Article 1: "Every human being has the right to life, liberty and the security of his person."

Article 25: "Every individual who has been deprived of his liberty ... has the right to humane treatment during the time he is in custody."

Article 26: "Every person accused of an offence has the right ... not to receive cruel, infamous or unusual punishment."

18. In addition, Bolivia has subscribed to the following international human rights conventions and covenants which are consistent with the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

3. International Covenant on Civil and Political Rights

19. Bolivia acceded to this International Covenant by Supreme Decree No. 18,950 of 17 May 1982, deposited with the Secretary-General of the United Nations on 12 August 1982. The relevant articles are the following:

Article 4:

"1. In time of public emergency which threatens the life of the nation and the existence of which is officially proclaimed, the States Parties to the present Covenant may take measures derogating from their obligations under the present Covenant to the extent strictly required by the exigencies of the situation, provided that such measures are not inconsistent with their other obligations under international law and do not involve discrimination solely on the ground of race, colour, sex, language, religion or social origin.

2. No derogation from articles 6, 7, 8, (paragraphs 1 and 2), 11, 15, 16 and 18 may be made under this provision."

According to article 7: "No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation."

4. American Convention on Human Rights: "Pact of San José, Costa Rica"

20. Bolivia acceded to the Convention by Supreme Decree No. 16,575 of 13 June 1979, while Major General David Padilla Arancibia was in office, and the instrument was deposited with the Secretary-General of the Organization of American States on 19 July 1979. The competence of the Inter-American Commission on Human Rights and the jurisdiction and competence of the Inter-American Court of Human Rights were recognized by Act No. 1,430 of 11 February 1993.

21. The following articles are particularly relevant:

Article 5

"1. Every person has the right to have his physical, mental and moral integrity respected.

2. No one shall be subjected to torture or to cruel, inhuman, or degrading punishment or treatment. All persons deprived of their liberty shall be treated with respect for the inherent dignity of the human person.

3. Punishment shall not be extended to any person other than the criminal.

4. Accused persons shall, save in exceptional circumstances, be segregated from convicted persons, and shall be subject to separate treatment appropriate to their status as unconvicted persons.

5. Minors while subject to criminal proceedings shall be separated from adults and brought before specialized tribunals, as speedily as possible, so that they may be treated in accordance with their status as minors.

6. Punishments consisting of deprivation of liberty shall have as an essential aim the reform and social readaptation of the prisoners."

Article 27

"1. In time of war, public danger, or other emergency that threatens the independence or security of a State Party, it may take measures derogating from its obligations under the present Convention to the extent and for the period of time strictly required by the exigencies of the situation, provided that such measures are not inconsistent with its other obligations under international law and do not involve discrimination on the ground of race, colour, sex, language, religion, or social origin.

2. The foregoing provision does not authorize any suspension of the following articles: ... *Article 5 (Right to humane treatment)* ... or of the judicial guarantees essential for the protection of such rights."

C. Judicial, administrative or other competent authorities with jurisdiction over matters dealt with in the Convention

22. The Public Prosecutor's Office, under the terms of article 125.II of the Constitution, is responsible for directing judicial police proceedings. This means it is responsible for the investigation and verification of offences, the collecting of evidence, the arrest of suspects and their handover to the judges and courts for trial, and in the event, for exercising the public right of action.

23. According to article 3 of the Public Prosecutor's Office Act[1] (No. 1,469) of 19 February 1993, published on 25 March 1993, the Public Prosecutor's Office is responsible for investigating ex officio any abuse of authority, irregularities and offences committed by judges, judicial or police officers or public servants in the performance of their duties, and taking action according to the law. Police officers and any authority obtaining knowledge of a public offence shall proceed according to the law and shall immediately inform the Public Prosecutor's Office in conformity with their legal responsibility.

24. The Human Rights Commission established by the Honourable Chamber of Deputies is authorized under the Constitution to act in the capacity of Public Prosecutor's Office if mandated by the Legislative Chambers. This Commission generally acts in that capacity in appropriate cases requiring investigation or on the occasion of events of national importance. It also receives complaints of human rights violations. Once its investigations are complete, it hands over cases to the competent authority for trial.

25. The Ministry of Justice and Human Rights, under the terms of the Executive Power Organization Act, and the regulations and complementary rules pertaining thereto, is specifically responsible for implementing national policy on the defence, protection and promotion of human rights, supervising the implementation of the national legal order, and coordinating activities with the Judiciary, the Public Prosecutor's Office and the Ombudsman.

26. Within the Ministry, the Deputy Minister for Human Rights is specifically responsible for promoting human rights policies and standards, and for supervising the fulfilment of and respect for human rights in the public and private sectors.

27. The Ombudsman is responsible for protecting, promoting and disseminating information on human rights. One of his duties is to receive complaints from victims or from third parties for violations of human rights. His task is then to request a report from the authority or official accused, to investigate and, if an offence is ascertained, to hand over the case to the Public Prosecutor's Office or to issue a decision recommending or recalling observance of legal duties.

28. The criminal justice system includes examining courts and district courts. The former are authorized to hear cases and decide when non-custodial penalties apply and when the offence is punishable with imprisonment. If the sentence does not exceed two years, the court will issue

---

[1] The Public Prosecutor's Office Bill, currently before the National Congress, will introduce significant changes to comply with the new Code of Criminal Procedure.

the initiating order in accordance with the provisions of the Code of Criminal Procedure of 1972. The district courts, sitting in plenary, hear and judge criminal cases referred to them by examining magistrates, as prescribed by the same Code; they also hear habeas corpus proceedings as provided for in the Constitution and current legislation.

29. It should be pointed out that the new Code of Criminal Procedure of 1999, which is partially in effect, establishes a different organizational structure. As it enters fully into force by 31 May 2001, legislative, organizational and administrative rules will be adjusted, while dissemination and training will be provided for the new Code.

D. Current situation as regards the practical implementation of the Convention

30. The Constitution makes provision for protection against torture, such protection being mandatory. The Code of Punishment characterizes torture as an offence, so that both public officials and private individuals must comply with this domestic law. As from last year, Bolivia's domestic legislation in this respect has been supplemented and strengthened with the Convention.

31. Since 1993 and the last constitutional reform (1995), the Public Prosecutor's Office has been an independent body, under the high authority of the Attorney-General, who supervises the investigation of offences and directly monitors any anomalies which may arise in the form of illegal or arbitrary detention, or especially serious offences such as torture, harassment and cruel and inhuman treatment.

32. The Ombudsman is responsible for visiting prisons and detention centres, without the need for prior authorization, in order to prevent human rights violations and, where necessary, institute proceedings, for instance, for habeas corpus, constitutional amparo or other, and in extreme cases refer to the competent authority to initiate the relevant proceedings for violation of a right or liberty.

33. Human rights sections have been set up in the security forces, the armed forces and the National Police, in order to monitor internally any departure from regulations.

II. INFORMATION IN RELATION TO EACH OF THE ARTICLES IN PART I OF THE CONVENTION

A. Articles 2 to 16

Article 2

Legislative measures

34. The following text has been incorporated in article 179 bis of the Penal Code: "(Failure to comply with decisions in habeas corpus and constitutional amparo proceedings). Any official or private individual who does not comply fully with judicial decisions handed down in habeas corpus or constitutional amparo proceedings shall be punishable by two to six years' imprisonment and a fine equivalent to 100 to 300 days' wage."

Administrative measures

35. On the strength of the existing political will, the National Congress adopted the Executive Power Organization Act (1997) and the Executive subsequently issued its regulations. The Executive will include within the Ministry of Justice and Human Rights a new ministerial post, namely a Vice-Minister for Human Rights, who will oversee and foster the training, promotion and dissemination of human rights both for public officials (police, armed forces and public officials in general) and for civil society, ensuring that the subject of human rights is taught in public and private universities and forms part of the study programme of law and related courses. The subject of human rights is also being included in the curricula of primary and secondary schools.

Judicial measures

36. Through the establishment of the Constitutional Court as guardian of respect for the rights, freedoms and guarantees established in the Bolivian Constitution and laws, the rule of law and the full exercise of the provisions of international conventions and treaties are consolidated.

Article 3

37. Article 151 (Inadmissibility) of the new Code of Criminal Procedure of 1999 provides that extradition shall not be admissible when "There are justifiable grounds for presuming that the extradition has been requested in order to prosecute or punish a person because of his political opinions, race, sex, religion, nationality or ethnic origin or that he will be subjected to cruel, inhuman or degrading treatment or punishment."

Article 4

38. Torture is characterized as an offence in article 295 (Harassment and torture) of the Penal Code. In addition, article 22 (Instigator) provides: "An instigator is a person who wilfully induces another to commit a wilful illegal act. He will be punishable by the penalty established for the perpetrator of the offence." Article 23 of the Code goes on to state: "An accomplice is a person who wilfully facilitates or cooperates in the perpetration of the wilful illegal act, in such a way that even without this help the act would have been committed, or who, on the basis of earlier promises, lends assistance or help subsequent to the act. An accomplice is punishable by the penalty established for the offence, extenuated in conformity with article 39."

39. Article 39 (Special extenuating circumstances) of the Penal Code stipulates: "In cases where this Code expressly provides for special extenuation, the following action shall be taken:

(1) A penalty of 30 years' rigorous imprisonment shall be reduced to 15;

(2) When the offence carries a minimum penalty of more than one year's rigorous imprisonment, the penalty imposed may be reduced to the legal minimum on the scale for rigorous imprisonment;

(3) When the offence carries a minimum penalty of one year's rigorous imprisonment or a penalty of ordinary imprisonment for a minimum term of more than one month, the penalty imposed may be reduced to the legal minimum on the scale for ordinary imprisonment."

Article 5

40. In domestic law, article 25 of the Judicial Organization Act stipulates that "Jurisdiction is the power possessed by the State to administer justice through the organs of the Judiciary, in accordance with the Constitution and the laws". Article 26 of the Act goes on to state that "Competence is the power possessed by a court or judge to exercise jurisdiction in a particular matter". Consequently, the examining district judge for criminal matters is the person designated by law to deal with the offence of harassment or torture.

Article 6

41. Within domestic legislation, article 5 (Definition and rights of the defendant) of the new Code of Criminal Procedure stipulates:

"A defendant is considered to be any person believed to have committed an offence who is brought before a body responsible for criminal prosecution. The defendant may exercise all the rights and guarantees accorded to him under the Constitution, the international conventions and treaties in force, and this Code from the first act in the proceedings to their completion.

The 'first act in the proceedings' shall be understood to be any charge made in a judicial or administrative body against a person presumed to have committed or participated in the commission of an offence.

Any person believed to have committed an offence has the right to be treated with due respect for his dignity as a human being."

42. In a similar vein article 84 (Rights of the defendant) stipulates:

"Any authority intervening in the proceedings shall ensure that the defendant is aware of the rights accorded to him under the Constitution, the international conventions and treaties in force, and this Code.

From the beginning of his detention, the defendant shall have the right to be assisted by his defence counsel and to talk to him in private.

If the defendant is detained in custody, the person responsible for the custody shall transmit to the judge within 24 hours any petitions or observations the defendant may make, and shall at all times facilitate his communication with defence counsel."

43. Article 23 (Requirements for pre-trial detention) states:

"Once the formal charge has been made, the judge may order the defendant's pre-trial detention on the substantiated application of the prosecutor or the complainant, when the following requirements are met:

(1) Sufficient evidence exists to support the view that the defendant has probably committed or been involved in a punishable act; and

(2) There is sufficient evidence that the defendant will not submit to trial or will obstruct the ascertaining of the truth."

Article 7

44. Domestic Bolivian legislation provides that extradition shall be governed by the international conventions and treaties in force and, subsidiarily, by the provisions of the Code of Criminal Procedure or, where no provisions exist, by the rules for reciprocity.

45. Any request must be submitted to the Ministry of Foreign Affairs and Worship and be accompanied by the most accurate possible identification of the person whose extradition is requested, information concerning his probable whereabouts and the authenticated text of the legal provision characterizing the offence. All the required documentation must be accompanied by an official translation in Spanish.

46. If the person in question is awaiting trial, the request must also be accompanied by the original or an authenticated copy of the charge against him, which must contain the characterization of the offence and details of the time and place of its commission, and the detention order issued by a competent judicial authority.

47. If the person has been convicted, the request must also be accompanied by the original or an authenticated copy of the sentence and certification of its executory copy stating, where appropriate, the length of sentence remaining to be served.

48. Competence to deal with extradition cases lies with the Supreme Court of Justice, which can order the pre-trial detention of the person whose extradition is requested for a maximum period of six months provided that proof is given of the existence of a conviction or detention order.

49. Once the extradition request has been received by the Supreme Court, the dossier is transmitted to the Office of the Attorney-General of the Republic in order that he may within 10 days make an application on the basis of its admissibility or inadmissibility. The Supreme Court will, within 20 days of receipt of the application, reach a decision on whether to grant or refuse the requested extradition (Code of Criminal Procedure, arts. 149-159).

Article 8

50. Following its ratification of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Bolivian State undertakes to include torture among the extraditable offences in any treaty concluded by it and another State party.

51. Extradition is basically governed by treaties concluded between States and, subsidiarily, by the provisions of the Code of Criminal Procedure or the rules of reciprocity when there is no applicable norm.

Article 9

52. In the area of international judicial and administrative cooperation, maximum attention will be given to requests by foreign authorities provided that the requests are made in conformity with the provisions of the Bolivian Constitution, the international treaties in force and the Code of Criminal Procedure.

53. The request for cooperation will be transmitted to the Ministry of Foreign Affairs and Worship, which will bring it to the attention of the competent authority. Among other requirements, the request for assistance must contain: the identity of the requesting authority, with a brief explanation of the assistance requested and a description of the act under investigation; the characterization of the act as an offence and the official text of the relevant law; an indication of the time-frame for compliance; and any other information necessary in order to deal appropriately with the request.

54. Assistance may be refused when the request violates the rights, freedoms and guarantees provided for by the Constitution and international treaties in force, when it relates to acts which are being investigated or are the subject of proceedings in Bolivia, or when an enforceable judgement has been handed down in respect of the person and offence concerning which cooperation is requested.

55. When the acts requested require significant expenditure, the requested authority will, before proceeding to take the necessary action, ask the requesting authority to deposit the necessary resources to meet that expenditure.

56. If a criminal organization operating in Bolivia has international links, the Attorney-General's Office may coordinate the investigation with other countries or international organizations. To this end, it may set up joint investigation teams. Any investigation undertaken in Bolivia will be under the responsibility of a national prosecutor and subject to the supervision of the judges of the Republic. Any joint investigation agreement will be approved by the Attorney-General (Code of Criminal Procedure, arts. 138-148).

Article 10

57. The Human Rights Promotion and Protection Programme, financed by the Office of the United Nations High Commissioner for Human Rights, the United Nations Development Programme, and the Ministry of Justice and Human Rights (Project Bol/97/015), includes among

its objectives: strengthening national institutions for the protection, defence and promotion of human rights, under the leadership of the above-mentioned Ministry; and establishing coordination mechanisms with organizations of civil society and the State. The Programme began on 1 June 1999 and financial provision has been made up to 30 June 2001.

58. Programme activities include training and dissemination of information on human rights within the National Police, the armed forces and the Executive; the subject of human rights will be included in the curriculum or study programme of the public and private universities; it will also be incorporated at the pre-school, primary and secondary levels; and similar work will be done by the Ombudsman.

59. The subject of human rights has already been included and is being taught as part of the study programmes of the National Police academy and the armed forces' training college. Among the specific subjects taught are the right to security of person and personal liberty, and the Code of Conduct for Law Enforcement Officials.

Article 11

60. The Bolivian Constitution recognizes that no one may be detained, arrested or imprisoned except in the cases and in accordance with the procedures established by law; for the execution of the respective order it is required that it be issued by a competent authority and served in writing.

61. A person may not be held incommunicado except in manifestly serious cases and never for more than 24 hours.

62. An accused person is presumed innocent until his guilt has been proved.

63. The right of defence of the person on trial is inviolable.

64. From the moment of his detention or imprisonment, a person held has the right to be assisted by a defence lawyer (public defence or ex officio defence).

65. No person may be sentenced without first having been heard and judged in a legal trial; he may not undergo a penalty unless it has been imposed by an enforceable sentence and by a competent authority. A criminal conviction must be based on a law in effect prior to the trial, and subsequent laws may only be applied if they are more favourable to the accused.

66. Private papers and correspondence are inviolable and may not be seized except in cases prescribed by law and on the basis of a written and substantiated order by a competent authority. Seized or intercepted private documents have no legal effect.

67. No public authority nor any person or organization may intercept private conversations or communications by means of a device which will monitor or centralize them.

68. In addition, evidence is not recognized if it has been obtained by means of torture, ill-treatment, coercion, threats, deceit or violation of the fundamental rights of individuals, or if it has been obtained through information originating from an unlawful seizure or means (Code of Criminal Procedure, art. 13, second para.).

Article 12

69. The Public Prosecutor's Office is a constitutional body enjoying functional independence whose purpose is to promote the action of justice, to defend legality, the interests of the State and society, and to investigate ex officio any abuse of authority, irregularities or offences committed by judges, judicial officers, police officers or public servants in the performance of their duties.

70. The Public Prosecutor's Office accordingly takes the lead in the investigation of offences and promotes the public right of action before the jurisdictional bodies. To this end it undertakes all necessary acts in order to prepare the prosecution and to participate in the trial. It supervises effective compliance with the guarantees recognized by the Constitution and international treaties. In the investigation it takes into account not only the circumstances that substantiate the charge, but also any circumstances tending to exonerate the defendant; it makes its applications in conformity with this criterion.

Article 13

71. The Ombudsman Act (No. 1,818) of 22 December 1997 specifically stipulates that any natural or legal person who considers that he has been the victim of arbitrary administrative procedures or acts, human rights violations or other illegal acts may lodge a complaint with the Ombudsman, without impediment of any kind.

72. Complaints may be lodged in writing or orally, without need for the assistance of a lawyer. If the complaint is lodged orally, a full record must be prepared. If the complaint is not in Spanish, the Ombudsman will provide a translator.

73. On the application of a party and where appropriate, the Ombudsman will order that the complainant's identity be withheld.

74. All the powers of the State, authorities, officials and natural or legal persons performing public services are required to cooperate urgently and immediately with the Ombudsman in his investigations.

75. Official responsibility may be incurred if acts or omissions on the part of an authority or a public servant prevent, hamper or delay the lawful exercise of the functions of the Ombudsman and these acts or omissions constitute an offence. The facts of the case will be transmitted to the Public Prosecutor's Office for prosecution in accordance with the law.

76. The Human Rights Commission established by the Chamber of Deputies also receives complaints concerning violations of human rights. It undertakes the relevant investigation and refers the matter to the competent authority in order that appropriate action may be initiated (Constitution, art. 59 (22) and art. 67 (6)).

Article 14

77. Supreme Decree No. 24,793 of 4 August 1997 established the Compensation Fund in order to provide compensation for the relatives of persons who died or survivors who were injured by acts which have led to material and moral damage as a result of action by State officials, when this damage gives rise to objective responsibility, incurred by the State and determined by a competent international body. The Fund is financed with resources from the National Treasury and credit and donations intended specifically for these purposes.

78. The Code of Punishment stipulates that any person found to be criminally liable also incurs civil liability and is obliged to make good the material and moral damage caused by the offence.

79. The Code of Criminal Procedure states that a criminal indemnity action may be brought for the redress or compensation of damage caused by the offence; it may only be brought by the injured party against the perpetrator and accomplices in the offence and, where appropriate, against the person incurring civil responsibility. In the event of the death of the injured party, the action may be brought by his heirs.

80. Procedure for the redress of damage: once the conviction or decision ordering a security measure on the grounds of partial or complete disability has become enforceable, the complainant or the prosecutor may apply to the trial judge to order redress for the damage caused or appropriate compensation. A victim who has not been involved in the trial may elect to take this action within three months of being informed of the enforceable sentence.

81. The application must state: the identity of the applicant or his legal representative and his legal domicile; the identity of the defendant and the domicile to which a summons should be addressed; a specific and detailed statement of the damage suffered and its direct relationship with the proven unlawful act; the legal grounds invoked and the specific application for redress sought or the amount of compensation claimed. The application must be accompanied by an authenticated copy of the conviction or of the decision ordering the security measure.

82. Once the application has been admitted, the judge will summon the parties and will confirm the agreements reached. Failing this, he will order the production of the evidence offered only with reference to the legitimation of the parties, the valuation of the damage and its direct relationship with the unlawful act.

83. Once the evidence has been produced and the parties heard, at the same hearing the judge will issue a decision dismissing the application or ordering the damage to be made good, with a specific and detailed description and the exact amount of compensation.

84. If the applicant fails to appear before the judge, he will be considered to have abandoned the application, which will be filed. If the defendant or any of the defendants fails to appear, the hearing will not be suspended, the results of the trial remaining binding.

85. The action for redress or compensation for injury will lapse two years after the conviction or the decision ordering the security measure has become enforceable (Code of Criminal Procedure, arts. 382-388).

Article 15

86. Articles 13 and 172 of the Code of Criminal Procedure state that the evidence shall be valid only if it has been obtained by lawful means and presented at the trial in conformity with the provisions of the Constitution and the Code. In addition, acts that infringe rights and guarantees established in the Constitution or international treaties, and also evidence obtained through information originating from an unlawful procedure or means, must be excluded as lacking any probative value.

87. Evidence obtained through torture, ill-treatment, coercion, threats, deceit or violation of the fundamental rights of individuals have no probative value.

Article 16

88. The following are among the most relevant articles of the Penal Code:

Article 295 (Harassment and torture): "Any official who harasses a detainee or allows him to be harassed shall be punished with imprisonment of between six months and two years.

If the official inflicts any kind of suffering or torture on the detainee, the penalty shall be increased to between two and four years of imprisonment.

If the torture causes injuries, the penalty shall be imprisonment of between two and six years; if it causes death, the penalty shall be 10 years' rigorous imprisonment."

Article 308 (Rape): "Any person who, by using physical violence or intimidation, obtains carnal access to a person of either sex, achieving anal or vaginal penetration or introducing objects for libidinous purposes, shall be liable to imprisonment for between 5 and 15 years.

Any person committing the above offences, even without the use of physical violence or intimidation, but taking advantage of the mental disability, seriously disturbed condition or a serious mental deficiency of the victim, or if the latter is unable to resist for any other reason, shall be liable to imprisonment for between 15 and 20 years."

Article 308 bis (Rape of a child or adolescent): "Whoever obtains carnal access to a person of either sex below the age of 14, through anal or vaginal penetration or by introducing objects for libidinous purposes, shall be punished with imprisonment for between 15 and 20 years, without entitlement to pardon, even without the use of force or intimidation and even where consent is alleged.

This penalty shall not apply to consenting relations between adolescents above the age of 12, provided that the age difference between them is not greater than three years and that no violence or intimidation has been used."

Lastly, article 321 bis (Trafficking in persons): "Whoever shall bring about, promote or encourage the entry into or exit from the country or movement within it of persons to engage in prostitution, by means of deceit, violence or threats, or renders them unconscious for this purpose, shall be punished with imprisonment for between four and eight years. If the victims are aged under 18 years, the penalty shall be 5 to 10 years' imprisonment.

If the victim is under 14 years of age, the penalty shall be 6 to 12 years' imprisonment, even in cases where the circumstances referred to in the above paragraph do not apply."

B. Legislative, judicial, administrative or other measures in force which give effect to these provisions

1. Legislative measures

89. The Legislature has adopted the following laws (see annex, "Report of the Human Rights Commission of the Chamber of Deputies").

Need for Constitutional Reform Act (No. 1,473) of 1 April 1993

90. This Act spelled out the need to reform the 1967 Constitution in order to carry out the necessary reorganization of the various branches of government, particularly the Judiciary, to establish a Constitutional Court and thereby apply a constitutional system of justice, and to strengthen the Public Prosecutor's Office.

Constitutional Reform Act (No. 1,585) of 12 August 1994

91. This Act reformed the following articles of the Constitution: 1 (Multi-ethnic and multicultural), 116 (Structure of the judiciary), 117, 118 (Powers of the Supreme Court), 119 to 121 (Constitutional Court), 122, 123 (Judicature Council), 124, 125, 126 (Public Prosecutor's Office), 127 to 131 (Ombudsman), 171 (Application of customary law), 200, 203, 204, 205 (Municipal regulations), 215, 217 (National Police regulations) and 220.

Act (No. 1,602) relating to the Abolition of Imprisonment and Enforcement by Committal for Indebtedness, of 15 December 1994

92. Many people were formerly arrested, detained and imprisoned for not paying civil damages for which they were liable and were not released until they had paid them. With this Act, it was decided to stop arresting, detaining and imprisoning people for indebtedness, given that the American Convention on Human Rights (the "Pact of San José") stipulates in article 7, paragraph 7, that "No-one shall be detained for debt" except in specified cases such as non-payment of maintenance.

93. The main features of the Act are summarized below:

Article 6 (Abolition of enforcement by committal): "In cases of obligations of a financial nature, compliance with the obligations may be enforced solely on the property of the individual(s) concerned; enforcement by committal of the debtor shall not be admissible in any of the following cases:

Civil liability arising from the commission of unlawful acts characterized as offences;

Fiscal obligations;

Tax obligations;

Lawyers' fees;

Electoral fines;

Arrest of parents for obligations arising from unlawful acts committed by their children under the age of 16;

Obligations for producing testimony and for stamps and certificates of judicial deposits."

Constitutional Adaptation and Harmonization Act (No. 1,615), of 6 February 1995

94. This was the final stage in the constitutional reform and took into account new institutions which indirectly affected certain constitutional precepts and made it necessary to adapt and harmonize the Constitution. For example, articles 18 and 19 of the Constitution establish the remedies of habeas corpus and constitutional amparo, and at no stage of the reform was there any intention to modify, change or adjust these. However, under the 1967 Constitution the body responsible for review was the Supreme Court of Justice; with the reform of article 120, paragraph 7, it is now the responsibility of the Constitutional Court.

Executive Power Organization Act (No. 1,788) of 16 September 1997

95. This Act established, in article 11 C (Administration of the National Public Defence System), the powers of the Ministry of Justice and Human Rights. Article 22 C of Supreme Decree No. 24,855, the regulations relating to the Executive Power Organization Act, deals with setting policies and taking action to ensure that public defence policies, rules, programmes and mechanisms are properly administered. Supreme Decree No. 25,055, which supplements Supreme Decree No. 24,855 of 22 September 1997, sets forth, with regard to article 10, the duties of deputy ministers. Under paragraph (e), responsibility for the administration of the National Public Defence Programme and its effective functioning in the departments and rural areas of Bolivia is expressly delegated to the Deputy Minister for Human Rights.

Article 107 of the new Code of Criminal Procedure establishes the system of State defenders. The State provides defence counsel in criminal cases as a public service for any needy defendant for whom no defence lawyer has been appointed. The public defence system comes under the responsibility of the Executive.

96. The first training workshop for public defenders, on "Public defence: violations of due process", took place in Cochabamba from 31 July to 4 August 1995. It was organized by Management Sciences for Development (MSD) for the Bolivian office of the United States Agency for International Development (USAID) under the Administration of Justice Programme, which has several components and has received technical and financial support.

97. To sum up, the public defence system's main task is to allow those who prove they cannot afford to hire a professional defence lawyer to exercise their right to a defence. The system is free of charge and is expressly provided for in article 116 (X) of the Constitution.

Act relating to Sworn Recognizance to Avert Delays in Criminal Justice

98. Sworn recognizance is the promise made by a defendant to comply fully with the following conditions, which must be set down in the record drawn up for this purpose:

(1) To appear before the judicial authority when required;

(2) To attend hearings and comply with all obligations and procedural formalities required by law;

(3) Not to change address or leave the country without prior authorization from the judge hearing the case.

99. Sworn recognizance resulting from delays in justice: The judge or court, ex officio or on the application of a party, shall order pre-trial release with the sole requirement of sworn recognizance in the following cases:

(1) When the defendant has been detained for over 160 days and no order terminating the proceedings has been made;

(2) When over 18 months of detention have passed and no judgement of first instance has been handed down;

(3) When the defendant has been detained for over four years and no coercive judgement having res judicata status has been handed down;

(4) When pre-trial detention before or after the examination proceedings has lasted longer than the theoretical penalty for the offences for which the defendant was committed to trial, provided that the minimum sentence is not less than 180 days. In the event of concurrence of offences, the highest minimum sentence is taken into account. This provision does not apply when there has been a coercive judgement in any instance;

(5) When the accused has been acquitted or has served his sentence or is eligible for release on parole, when general or special remedies against the judgement have been applied for.

Penal Code Amendment Act (No. 1,768) of 10 March 1997

100. The following new penalty has been included in the Penal Code:

Article 179 bis (Failure to comply with decisions in habeas corpus and constitutional amparo proceedings). "Any official or private individual who does not comply fully with judicial decisions handed down in habeas corpus or constitutional amparo proceedings shall be punishable by two to six years' imprisonment and a fine equivalent to between 100 to 300 days' wage."

101. As a result of the imposition of this new penalty, both public officials and private individuals are required to comply with rulings handed down according to the law, which in the past they ignored or simply evaded and thus rendered unworkable in practice. The Legislature's decision to characterize non-compliance with judicial decisions as a criminal offence will make it easier to enforce rulings from now on.

Judicature Council Act (No. 1,817) of 22 December 1997

102. The inclusion of the Judicature Council in the Bolivian legal system is important as it has been given the vital task of administering the financial resources of the Judiciary and is responsible for discipline. With regard to financial resources, the idea is that the core function of judges, courts and magistrates is to pass judgement, that is, to administer justice, and not to perform unrelated tasks; in order to do this, they need the support of an adequate infrastructure. As to matters of discipline, if members of the Judiciary are to perform properly the tasks assigned to them under the Constitution, international conventions or treaties, and Bolivian law, they must have the competence to be able to carry out judicial work efficiently.

103. The following are the relevant articles of the Judicature Council Act:

Title V: Disciplinary system

Chapter I: Responsibility and misdemeanours

Article 37 (Responsibility). I. "Every judicial officer incurs civil, criminal and disciplinary responsibility for actions or omissions that may impede the normal performance of the activities of the Judiciary or impair the proper and timely administration of justice.

The system of disciplinary responsibility for the Supreme Court judges, Constitutional Court judges and Judicature Councillors shall be established by law."

Article 38 (Disciplinary misdemeanours). "Disciplinary misdemeanours are classed as very serious, serious and minor."

Article 39 (Very serious misdemeanours).

Article 40 (Serious misdemeanours).

Article 41 (Minor misdemeanours).

Ombudsman Act (No. 1,818) of 22 December 1997

104. The Ombudsman's task is to ensure that personal rights and guarantees are effective and respected over the entire range of administrative activity of the public sector. He is also responsible for the promotion, realization and defence of human rights and the dissemination of information on human rights.

105. Persons whose rights are infringed by public officials or whose human rights are violated can lodge a complaint with the Ombudsman. In addition, the Act authorizes the Ombudsman to institute proceedings ex officio.

106. With regard to complaints, the Ombudsman Act expressly provides as follows:

Title IV: Investigation, complaints, obligation to cooperate, confidentiality, responsibility, private documents, decisions and notifications.

Chapter II: Complaints

Article 19. (Competence to lodge complaints): "Any natural or legal person who considers that he has been the victim of arbitrary administrative acts or procedures, human rights violations or other illegal acts may lodge a complaint with the Ombudsman, without impediment of any kind."

Article 20. (Form of submission of complaints): "Complaints may be lodged in writing or orally, without need for the assistance of a lawyer. If the complaint is lodged orally, a full record shall be prepared. If the complaint is not in Spanish, the Ombudsman shall provide a translator.

On the application of a party and where appropriate, the Ombudsman shall order that the complainant's identity be withheld."

Article 21. (Time limit): "Any complaint to the Ombudsman shall be submitted within one year of the time at which the complainant learned of the events or omissions giving rise to the complaint. Lodging a complaint with the Ombudsman does not affect the time limits for administrative remedies or legal action as provided for by law.

Nevertheless, in exceptional cases determined as such by the Ombudsman and his deputies, he may consider complaints concerning events that occurred over a year before submission of the complaint."

Constitutional Court Act (No. 1,836) of 1 April 1998

107. The establishment of the Constitutional Court is important because of the function it performs, particularly as a regulatory monitor of rights, and its vital review role as constitutional monitoring body.

108. In order to ensure the faithful observance of the fundamental rights and constitutional guarantees in a State governed by the rule of law, the Constitutional Court Act provides for situations such as the following:

Chapter II (Direct or abstract action of unconstitutionality):

Article 54 (Legal basis): "The direct or abstract action of unconstitutionality shall be initiated against any law or decree or any kind of non-judicial decision that is contrary to the Constitution as an action not linked to a particular case."

Chapter IX (Remedy of habeas corpus):

Article 89 (Habeas corpus):

Chapter X (Remedy of constitutional amparo):

Article 94 (Legal basis):

Chapter XIII (Constitutionality of international treaties or conventions).

Code of Criminal Procedure Act (No. 1,970) of 25 March 1999, published on 31 May 1999

109. Among the provisions of the Code of Criminal Procedure are constitutional guarantees to ensure that investigations are carried out efficiently, judicial proceedings are oral and public, and the justice system is made more democratic by introducing lay judges, community justice and input from the victim, limiting the use of precautionary measures of a personal nature and monitoring delays in the justice system.

110. The most important articles of the Code defining the area of protection and judicial guarantees are summarized below:

Part One: General

Book One: Fundamental principles and provisions

Title I. Constitutional guarantees:

Article 1 (No conviction without prior trial and legal process): "No one shall be sentenced to any punishment except through an enforceable judgement handed down after a prior hearing in an oral and public trial, held in accordance with the Constitution, the international conventions and treaties in force, and this Code."

Article 2 (Legitimacy): "No one shall be tried by special commissions or tribunals, or be brought before jurisdictional bodies other than those established in accordance with the Constitution and the law before the offence was committed."

Article 3 (Impartiality and independence): "Judges shall be impartial and independent, subject only to the Constitution, the international conventions and treaties in force, and the laws.

In no event shall State bodies or natural or legal persons interfere in the handling of a particular trial. Should there be any interference, the judge shall apprise the Supreme Court of Justice of the actions affecting his independence. Where the source of the interference is the Judiciary itself, the report shall be submitted to the Judicature Council or the National Congress."

Article 5 (Definition and rights of the defendant): "A defendant is considered to be any person believed to have committed an offence who is brought before a body responsible for criminal prosecution. The defendant may exercise all the rights and guarantees accorded to him under the Constitution, the international conventions and treaties in force, and this Code from the first act in the proceedings to their completion.

The 'first act in the proceedings' shall be understood to be any charge made in a judicial or administrative body against a person presumed to have committed or participated in the commission of an offence.

Any person believed to have committed an offence has the right to be treated with due respect for his dignity as a human being."

Article 6 (Presumption of innocence): "Every defendant shall be presumed innocent and be treated as such at all times until declared guilty in an enforceable judgement.

The defendant may not be obliged to testify against himself and his silence shall not be used against him.

The burden of proof lies with the accusers and any presumption of guilt is prohibited.

In the case of persons in contempt of court, only information necessary for their apprehension shall be published."

Article 7 (Application of precautionary and restrictive measures): "The application of the precautionary measures established in this Code shall be exceptional. When there is doubt about whether to apply a precautionary measure or other provisions restricting the rights or capacities of the defendant, the most favourable one shall be applied."

Article 8 (Substantive defence): "The defendant, without prejudice to expert defence, shall have the right to defend himself, to intervene in all acts of the proceedings that involve evidence, and to make such requests and comments as he may deem fit."

Article 9 (Expert defence): "Every defendant has the right to be assisted and defended by a lawyer from the first act in the proceedings until the sentence has been served. This right may not be waived.

Defence counsel shall be appointed without any delay or formality at the time of arrest or detention or before the defendant begins to make a statement. If the defendant, when consulted, does not choose a lawyer or if the lawyer chosen does not immediately accept the brief, a defence counsel shall be appointed by the court."

Article 10 (Interpretation): "A defendant who does not understand Spanish shall have the right to choose a translator or interpreter to assist him in all acts necessary for his defence. If the defendant does not exercise this right or does not have the means to do so, a translator or interpreter shall be appointed by the court."

Article 11 (Victim's rights): "The victim may intervene in the criminal proceedings in accordance with the provisions of this Code, and shall have the right to be heard before any decision that may lead to the abatement or suspension of the criminal action and, where appropriate, to challenge such a decision."

Article 12 (Equality): "The parties shall have equal opportunities to exercise their powers and rights during the proceedings."

Article 13 (Legality of evidence): "Evidence shall have value only if it has been obtained lawfully and introduced into the proceedings in accordance with the provisions of the Constitution and this Code."

Article 34 (International treaties): "The rules on prescription contained in international treaties and conventions shall have primacy."

Article 71 (Illegality of evidence): "Prosecutors may not use against the defendant evidence obtained in violation of the Constitution, the international conventions and treaties in force, or the laws."

Article 72 (Objectivity): "Prosecutors shall ensure that the guarantees recognized by the Constitution, the international conventions and treaties in force, and the laws are effectively observed. During their investigation, they shall take into account not only the circumstances that substantiate the charge, but also any circumstances, tending to exonerate the defendant, formulating their applications in conformity with this criterion."

Article 84 (Rights of the defendant): "Any authority intervening in the proceedings shall ensure that the defendant is aware of the rights accorded to him under the Constitution, the international conventions and treaties in force, and this Code.

From the beginning of his detention, the defendant shall have the right to be assisted by his defence counsel and to talk to him in private.

If the defendant is detained in custody, the person responsible for the custody shall transmit to the judge within 24 hours any petitions or observations the defendant may make and shall at all times facilitate his communication with defence counsel."

Article 172 (Evidentiary exclusions): "Acts that infringe rights and guarantees established in the Constitution, the international conventions or treaties in force, this Code or other Bolivian laws, and also evidence obtained through information originating from an unlawful procedure or means, shall have no probative value.

Evidence introduced into the proceedings without following the procedures laid down in this Code shall likewise have no probative value."

Article 221 (Aim and scope): "Personal liberty and the other rights and guarantees accorded to every person under the Constitution, the international conventions and treaties in force, and this Code may be restricted only when this is essential to ensure that the truth is established, the proceedings follow their course and the law is applied.

The rules authorizing measures that restrict rights shall be applied and interpreted in accordance with article 7 of this Code. Such measures shall be authorized by a substantiated judicial decision, as regulated by this Code, and shall apply only for as long as they are necessary.

The defendant's liberty may not be restricted in order to guarantee the payment of civil damages, costs or fines."

Code on Children and Adolescents of 27 October 1999

111. This Code establishes and regulates the system of prevention, protection and comprehensive care that the State and society must provide to every child and adolescent in order to ensure their physical, mental, moral, spiritual, emotional and social development in conditions of freedom, respect, dignity, equity and justice.

Protection of Victims of Sexual Abuse Act (No. 2,033) of 29 October 1999

112. The articles of this Act cover the rape of children and adolescents, indecent acts, seduction of minors, trafficking in persons, and rights and guarantees.

2. Judicial measures

113. As laid down in the Constitution, the Judiciary includes the Constitutional Court, the Supreme Court of Justice, the Judicature Council, judges and courts.

114. Judgements or rulings handed down by either the Constitutional Court or the Supreme Court of Justice help to strengthen national jurisprudence, and lead, in particular, to amendments of the remedies of habeas corpus and constitutional amparo, abstract, remedial and incidental actions of unconstitutionality, or legal opinions on specific cases that may declare unconstitutional preliminary draft laws, decrees or any kinds of non-judicial decisions.

115. The Judicature Council, as the disciplinary body of the Judiciary, has responsibility for the strict observance of discipline by judicial officers in the application of the Constitution, treaties and laws.

3. Administrative measures

Programme for the Promotion and Protection of Human Rights

116. With the support of the Office of the United Nations High Commissioner for Human Rights, the United Nations Development Programme (UNDP), and the Ministry of Justice and Human Rights, an interdisciplinary team of Bolivian experts has been set up to deal with the following areas: criminal procedure, women, children, indigenous peoples, anthropology, the media and methodology.

117. The team began work on 1 June 1999, with the following objectives: working from the Ministry of Justice and Human Rights to strengthen national institutions for the protection, defence and promotion of human rights; and to set up mechanisms for coordination with civil society and State organizations.

Public Defence Programme

118. Supreme Decree No. 23,252 of 31 August (year not stated) established the Public Defenders Department and remained in force until abrogated by the Executive Ministries Act (No. 1,493) of 17 September 1993, which provided in article 17, paragraph (b), that the Ministry of Justice thereby established was to administer the National Public Defence Programme and the regulations relating to the Executive Ministries Act put into effect by Supreme Decree No. 23,660 of 12 October 1993. Supreme Decree No. 24,073 of 20 July 1995 governs the activity of the public defence system, regulating its organizational and financial structure and staff administration. The Act (No. 1,602) relating to the Abolition of Imprisonment and Enforcement by Committal for Indebtedness of 15 December 1994 and the Act (No. 1,685) relating to Sworn Recognizance to Avert Delays in Criminal Justice of 2 February 1996 grant it powers to intervene ex officio.

119. Article 2, paragraph 2 (a), of Supreme Decree No. 24,355 of 23 August 1996 refers to the national programme to support and protect older persons, which is consistent with Supreme Decree No. 24,073 on free legal aid in criminal cases for needy persons over the age of 65.

120. In his report to the National Congress, the Ombudsman describes the progress made in the defence and promotion of human rights and the dissemination of information on them (see annex).

C. Factors or difficulties affecting the practical implementation of these provisions

121. There is a priority need to strengthen the system of legal and administrative control, especially during the work of the Judicial Police and interrogations, and to upgrade military barracks, prisons, and police and military training colleges.

122. It is also hoped to develop training courses for the police and the armed forces on civil, political, economic, social and cultural rights and solidarity rights in rural areas.

123. The major obstacle in all these activities is the shortage of money and trained legal advisers in the field of human rights.

D. Concrete cases and situations where measures giving effect to these provisions have been enforced, including any relevant statistical data

124. Practical examples of steps taken by the victims of a number of relevant situations have been provided by the Human Rights Commission of the Chamber of Deputies (see annexed report). Information has also been provided by the Technical Judicial Police (see statistical data in annex).